

1 I, Abenicio Cisneros, declare under oath as follows:

2 1. I am Petitioner's Counsel in this action. I am giving this declaration in support of
3 Petitioner's motion to compel production of lists of withheld documents. I have personal and first-
4 hand knowledge of the facts stated in this declaration and could testify to them as a witness at a
5 trial or hearing.

6 2. I sent an email to Respondent's counsel on September 23, 2018, requesting a list of
7 withheld and redacted documents in this matter. In that email I cited to case law to support my
8 request, informed counsel that my client requires the list, and further informed counsel that my
9 client would seek a judicial order for the list should Respondent not provide it. Attached as Exhibit
10 A is the September 23, 2018, email to Respondent's counsel requesting the list.

11 3. I sent two follow-up emails—the first on October 1, 2018, the second on October 5,
12 2018—to Respondent after receiving no initial response.

13 4. Respondent replied via email on October 5, 2018. In its reply, Respondent declined
14 to produce a list of withheld and redacted documents. Additionally, Respondent expressed its
15 beliefs that it was not required to produce such a list and that creation of the list is neither
16 necessary or appropriate. Attached as Exhibit B is Respondent's October 5, 2018, email declining
17 to produce the requested list.

18 5. The parties met and conferred via telephone on October 10, 2018. Respondent
19 confirmed that it would not provide a list of withheld and redacted documents in the absence of a
20 judicial order. I informed Respondent that Petitioner would file a motion for such an order to be
21 heard at the Trial Setting Conference on November 16, 2018. Respondent favored that date as it
22 alleviates the need for an additional court appearance.

23 I declare under penalty of perjury under the laws of the State of California that the foregoing
24 is true and correct.

25 Dated: October 18, 2018



Abenicio Cisneros
Attorney for Petitioner

EXHIBIT A



Abenicio Cisneros <acisneros@capublicrecordslaw.com>

Request for Vaughn index in Riskin v Fashion District

Abenicio Cisneros <acisneros@capublicrecordslaw.com>

Sun, Sep 23, 2018 at 5:37 PM

To: Carol Humiston <chumiston@bglawyers.com>

Carol,

Thank you for sending an electronic copy of the BID's Answer. Please let me know whether you are amenable to electronic service moving forward.

Additionally, my client requires a list of withheld and redacted documents in order to properly litigate this matter. Such a list is commonly referred to as a "*Vaughn* index" in FOIA litigation. State courts have ordered the creation of such a list in CPRA matters. See, e.g., *State Bd. Of Equalization v. Superior Court* (1992) 10 Cal.App.4th 1177, 1993.

Let me know if your client is amenable to providing a list of withheld and redacted documents which conforms with the requirements of a *Vaughn* index without a court order. If your client is not amenable, let me know when we can meet and confer in advance of a motion for the list to be heard at the same time as the Trial Setting Conference.

Additionally, let me know if your client is amenable to resolving this matter via settlement. If so, we can setup a call with my co-counsel to discuss.

Let me know if you have any other questions for me at this time. Thank you.

Best,
Abenicio Cisneros
CApublicrecordslaw.com
acisneros@CApublicrecordslaw.com
(707) 653-0438

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EXHIBIT B



Abenicio Cisneros <acisneros@capublicrecordslaw.com>

Request for Vaughn index in Riskin v Fashion District

Carol Humiston <chumiston@bglawyers.com>

Fri, Oct 5, 2018 at 8:47 PM

To: Abenicio Cisneros <acisneros@capublicrecordslaw.com>

Mr. Cisneros,

I have considered your request for a "Vaughn Index," which of course in a Federal procedure, and I do not believe it is either necessary or appropriate at this time. I know of nothing that requires the BID to produce such an index. Once you have filed your brief in support of the Writ, the Court and I will have a better understanding of the issues you are raising and the appropriate course to take.

I can meet and confer with you on October 10, 2018, for most of the day, but I have an outstanding offer for a client meeting that day, so as soon as that is finalized, I will get back to you about my availability. How does that sound?

Carol

Carol A. Humiston, Esq.

Bradley & Gmelich

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From: Abenicio Cisneros <acisneros@capublicrecordslaw.com>
Sent: Friday, October 05, 2018 8:47 AM
To: Carol Humiston <chumiston@bglawyers.com>
Subject: Re: Request for Vaughn index in Riskin v Fashion District

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